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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,498	06/19/2001	Yukio Horiuchi	45354/DBP/T360	4466
23363	7590	06/02/2006	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			PHAN, HANH	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			2613	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,498

Applicant(s)

HORIUCHI ET AL.

Examiner

Hanh Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, 12 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 12 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive the Amendment filed on 03/09/2006.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 2, 5-8, 11, 12 and 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

-In claims 1, 5, 7, 11, 15 and 17, the phrase "**wherein N is an integer greater than one**" was not described in the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 3 is rejected under 35 U.S.C. 102(e) as being anticipated by Habel et al (US Patent No. 6,592,273).

Regarding claim 3, referring to Figure 2, Habel teaches an optical data transmission method to transmit an optical packet composed of a header and data comprising steps of:

generating a second clock (i.e., second clock fch is generated by clock circuit 7, Fig. 2) which has a frequency equal to one integer of that of a first clock carrying the data and synchronizes with the first clock; and

carrying the header information (i.e., overhead data , Fig. 2) on the second clock (see col. 3, lines 27-53).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habel et al (US Patent No. 6,592,273) in view of Rybicki et al (US Patent No. 6,151,149).

Regarding claims 1 and 11, referring to Figure 2, Habel teaches an optical data transmission method to transmit an optical packet composed of a header and data comprising steps of:

generating a second clock (i.e., second clock fch is generated by clock circuit 7, Fig. 2) which has a frequency equal to one integer of that of a first clock carrying the data and synchronizes with the first clock; and

carrying the header information (i.e., overhead data , Fig. 2) on the second clock (see col. 3, lines 27-53).

Habel differs from claims 1 and 11 in that he fails to specifically teach generating a second clock which has a frequency equal to $1/N$ of that of a first clock carrying the data and synchronizes with the first clock wherein N is an integer greater than one and transmitting the header before the data. However, Rybicki in US Patent No. 6,151,149 teaches generating a second clock which has a frequency equal to $1/N$ of that of a first clock carrying the data and synchronizes with the first clock wherein N is an integer greater than one and transmitting the header before the data (Figures 2 and 7, col. 5, lines 26-67 and col. 6, lines 1-65. Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the generating a second clock which has a frequency equal to $1/N$ of that of a first clock carrying the data and synchronizes with the first clock wherein N is an integer greater than one and transmitting the header before the data as taught by Rybicki in the system of Habel. One of ordinary skill in the art would have been motivated to do this since Rybicki suggests in column 5, lines 26-67 and col. 6, lines 1-65 that using such the generating a

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second clock which has a frequency equal to $1/N$ of that of a first clock carrying the data and synchronizes with the first clock wherein N is an integer greater than one and transmitting the header before the data have advantage of allowing reducing the interference between the data signal and overhead data and increasing the transmission performance of a system.

9. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habel et al (US Patent No. 6,592,273) in view of Rybicki et al (US Patent No. 6,151,149) and further in view of Bergano (US Patent No. 6,310,709).

Regarding claims 2 and 12, Habel as modified by Rybicki teaches all aspects of the claimed invention except fails to specifically teach the second clock is phase-modulated by the header information. However, Bergano in US Patent No. 6,310,709 teaches the second clock is phase-modulated by the information (Fig. 1, col. 2, lines 25-58). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the second clock is phased modulated by the information as taught by Bergano in the system of Habel modified by Rybicki. One of ordinary skill in the art would have been motivated to do this since Bergano suggests in column 2, lines 25-58 that using such the second clock is phased modulated by the information have advantage of allowing reducing the interference between the data signal and overhead data and increasing the transmission performance of a system.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habel et al (US Patent No. 6,592,273) in view of Bergano (US Patent No. 6,310,709).

Regarding claim 4, Habel teaches all aspects of the claimed invention except fails to specifically teach the second clock is phase-modulated by the header information. However, Bergano in US Patent No. 6,310,709 teaches the second clock is phase-modulated by the information (Fig. 1, col. 2, lines 25-58). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the second clock is phased modulated by the information as taught by Bergano in the system of Habel. One of ordinary skill in the art would have been motivated to do this since Bergano suggests in column 2, lines 25-58 that using such the second clock is phased modulated by the information have advantage of allowing reducing the interference between the data signal and overhead data and increasing the transmission performance of a system.

Allowable Subject Matter

11. Claims 5-8 and 15-18 are allowed (if overcome the 112 first rejection).

Response to Arguments

12. Applicant's arguments with respect to claims 1-8, 11, 12 and 15-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


HANH PHAN
PRIMARY EXAMINER